

R. MORGAN GILHULY (State Bar No. 133659)  
BRETT S. HENRIKSON (State Bar No. 208484)  
BARG COFFIN LEWIS & TRAPP, LLP  
One Market · Steuart Tower, Suite 2700  
San Francisco, California 94105-1475  
Telephone: (415) 228-5400  
Fax: (415) 228-5450  
Email: rmg@bcltlaw.com  
bh2@bcltlaw.com

Attorneys for Petitioner  
Conaway Preservation Group, LLC

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In re:

No. \_\_\_\_\_

CLEANUP OF PETROLEUM FUEL  
POLLUTION, CONAWAY RANCH, YOLO  
COUNTY – REQUEST FOR  
RECONSIDERATION OF STAFF DENIAL  
OF COVERAGE UNDER GENERAL  
ORDER NO. 5-00-119 (CALIFORNIA  
REGIONAL WATER QUALITY CONTROL  
BOARD, CENTRAL VALLEY REGION)

PETITION FOR REVIEW

Petitioner Conaway Preservation Group, LLC submits this Petition for Review of “Cleanup of Petroleum Fuel Pollution, Conaway Ranch, Yolo County – Request for Reconsideration of Staff Denial of Coverage Under General Order No. 5-00-119” (“Decision Upon Reconsideration,” attached as Exhibit A) issued by Executive Officer Thomas R. Pinkos of the California Regional Water Quality Control Board, Central Valley Region (“RWQCB”). This Petition for Review is filed in accordance with Section 13320 of the California Water Code and Section 2050 of Title 23 of the California Code of Regulations (“CCR”).

Section 2050(a) of CCR Title 23 requires that a petition for review contain certain items of information. Responses to each of the required items are set forth below.

1. Petitioner is Conaway Preservation Group, LLC. Petitioner's address is c/o Gidaro

Group, 2251 Fair Oaks Blvd., Ste. 300, Sacramento, California. Communication concerning this matter should be sent to Petitioner's attorneys at the address specified in the caption of this petition.

2. Petitioner requests that State Water Resources Control Board ("SWRCB") review the Decision Upon Reconsideration.

3. The RWQCB, through its Executive Officer, issued the Decision Upon Reconsideration on December 2, 2005.

4. Petitioner will submit to the SWRCB as an amendment to this petition a full and complete statement of reasons that the Decision Upon Reconsideration was inappropriate and improper.

5. Petitioner will submit to the SWRCB as an amendment to this petition a statement of the manner in which Petitioner is aggrieved by the Decision Upon Reconsideration.

6. Petitioner requests that the SWRCB set aside and reverse the Decision Upon Reconsideration or that the SWRCB direct the RWQCB to set aside and reverse the Decision Upon Reconsideration

7. Petitioner will submit to the SWRCB as an amendment to this petition a complete statement of points and authorities in support of this petition.

8. Petitioner has provided a list of persons known by the RWQCB to have an interest in the subject matter of this petition as Exhibit B. Petitioner may submit as an amendment to this petition additional information on persons known by the RWQCB to have an interest in the subject matter of this petition.

9. A copy of this Petition for Review and the attached Exhibits A and B have been sent to the RWQCB (see Exhibit C).

10. Petitioner will submit to the SWRCB as an amendment to this petition a copy of its request to the RWQCB for preparation of the RWQCB's record concerning the Decision Upon Reconsideration.

11. Petitioner requests that the SWRCB hold a hearing at which Petitioner can present additional evidence to the SWRCB. Petitioner will submit to the SWRCB as an amendment to

this petition statements regarding evidence as appropriate under Section 2050(b) of CCR Title 23.

For all the reasons stated herein, Petitioner requests that the State Water Resources Control Board set aside and reverse the Regional Water Quality Control Board's Decision Upon Reconsideration or direct the Regional Water Quality Control Board to set aside and reverse the Decision Upon Reconsideration.

Dated: December 20, 2005

Respectfully submitted,

BARG COFFIN LEWIS & TRAPP, LLP

By: \_\_\_\_\_

BRETT S. HENRIKSON

Attorneys for Petitioner  
Conaway Preservation Group, LLC

EXHIBIT A

KDL



Alan C. Lloyd, Ph.D.  
Agency Secretary

## California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



Arnold  
Schwarzenegger  
Governor

Sacramento Main Office  
11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114  
Phone (916) 464-3291 • FAX (916) 464-4645  
<http://www.waterboards.ca.gov/centralvalley>

2 December 2005

Mr. Thomas R. Berry  
Cambria Environmental Technology, Inc.  
5900 Hollis Street, Suite A  
Emeryville, CA 94608

### **CLEANUP OF PETROLEUM FUEL POLLUTION, CONAWAY RANCH, YOLO COUNTY – REQUEST FOR RECONSIDERATION OF STAFF DENIAL OF COVERAGE UNDER GENERAL ORDER NO. 5-00-119**

Upon review of the proposed discharge, it is affirmed that the proposed discharge is not eligible for coverage under Regional Water Board Order No. 5-00-119, the General NPDES Permit for Discharge to Surface Waters of Groundwater from Cleanup of Petroleum Fuel Pollution.

A Report of Waste Discharge (RWD) dated 23 August 2005 was submitted for a proposed discharge of treated groundwater from the cleanup of a petroleum fuel leak at the Conaway Ranch near Woodland in Yolo County. Coverage was requested under Regional Water Board Order No. 5-00-119, the General NPDES Permit for Discharge to Surface Waters of Groundwater from Cleanup of Petroleum Fuel Pollution. On 15 September 2005, Richard McHenry, Senior Engineer with the Regional Water Board, issued a letter stating that the proposed discharge did not meet the conditions of the General Permit. You subsequently petitioned the State Water Resources Control Board for review of this decision. The State Water Board referred the matter to the Executive Officer of the Regional Water Board for a review and final administrative determination before the State Water Board considers the petition.

Mr. McHenry's conclusion was based on three factors:

- 1) We understood from telephone conversations between you and Mr. Michael Negrete that the range of salt in wells to be pumped was from 1,000 to 19,000 umhos/cm. Such concentrations of salt could significantly impact downstream use of the receiving water, particularly for irrigation use. It is also common that the uppermost groundwaters near Woodland are naturally high in boron and fluoride, although no analytical data were available for these constituents.
- 2) The RWD characterized the discharge as having an average daily ammonia concentration of 10 mg/L and a maximum daily ammonia concentration of 20 mg/L. Ammonia at these concentrations can be chronically and acutely toxic to aquatic organisms. Although we would not normally expect significant ammonia concentrations in a petroleum cleanup, this site was part of a major farming operation, so we were concerned that there could additionally be a groundwater problem associated with fertilizer storage and handling.

Mr. Thomas R. Berry

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- 3) The RWD also characterized the discharge as having relatively high BOD, COD, TOC and TSS concentrations, far higher than we would anticipate from a normal discharge of treated groundwater from a petroleum fuel cleanup.

The subject General NPDES Permit is for "low threat" discharges only, that is, discharges that cannot reasonably be expected to cause any water quality or public health threat, in addition to meeting the stringent effluent limitations in the Permit. Given our understanding at the time of the high salt content, likely ammonia toxicity, and other unusually high effluent parameters, Mr. McHenry correctly determined the proposed discharge ineligible for coverage under the General Permit.

In conversations and e-mails between you and Mr. Kenneth Landau, Assistant Executive Officer with the Board's Rancho Cordova Office, we have found that some of the basic information on the discharge was incorrect. The salinity of the discharge is not as high as 19,000 umhos/cm. That was an apparent miscommunication between Mr. Negrete and yourself. From your 28 October e-mail to Mr. Landau, we understand that the proposed pumping wells range from 1530 to 6670 umhos/cm, with a mean of 3427 umhos/cm. The Ammonia, BOD, COD, TOC and TSS concentrations were "best professional estimates" and not based on any specific sampling.

It appears that some of the concerns have been resolved, but the salinity of the effluent is still very high. Receiving Water Limitation E.1 of Order No. 5-00-119 requires that the discharge not cause the receiving water to exceed a Total Dissolved Solids concentration of 1000 mg/L. Information on available dilution was submitted in your 17 November 2005 e-mail. For much of the irrigation season it appears that there may be substantial dilution available, but at other times of the year little or no dilution is available. You suggested applying the 1000 mg/L TDS receiving water standard as an annual average to account for the variability of the dilution.

The receiving water TDS limitation in the General Permit is not written as an average. The limitation is "*The discharger shall not cause the following in the receiving water: 1. The total dissolved solids to exceed 1000 mg/l....*" Your suggestion to apply the receiving water TDS limitation as an annual average is not in compliance with the current General NPDES Permit. However, it may be possible in an individual NPDES Permit to have a less stringent TDS receiving water limit by accounting for dilution, seasonal use of the receiving water, crops using the receiving water for irrigation, proximity of irrigation water diversions, and other site specific factors. These types of site specific conditions cannot, however, be addressed within a general permit that must prescribe effluent and receiving water limits that are protective under any reasonable discharge condition. Moreover, given the high concentration of salt in the proposed discharge and the lack of dependable dilution in the receiving water, even an individual NPDES Permit may not allow the discharge at the existing TDS concentrations.

Based upon available information, the proposed discharge would not comply with the Order No. 5-00-119. The proposed discharge is, therefore, ineligible for coverage under Order No. 5-00-119.

We suggest that you consider land disposal of the treated groundwater under Regional Board Order No. R5-2003-0044, "General Order for Land Disposal of Groundwater or Surface Water From Cleanup of Petroleum Pollution". This Order does not allow degradation or pollution of groundwater, but the salinity of groundwater in the vicinity of the cleanup may well be the same as the groundwater being

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treated, so infiltration or injection of the treated groundwater back into the aquifer should not degrade water quality.

If you have any questions concerning this matter, please contact either Mr. Richard McHenry at (916) 464-4655 or Mr. Kenneth Landau at (916) 454-4839. For information regarding possible coverage under Order No. R5-2003-0044, please contact Mr. Mark List at (916) 464-4732.

A handwritten signature in black ink, appearing to read "Thomas R. Pinkos". The signature is stylized with a large initial "T" and a cursive "P".

THOMAS R. PINKOS  
Executive Officer

cc: Betsy Jennings, Office of the Chief Counsel, State Water Resources Control Board, Sacramento  
Frances McChesney, Office of the Chief Counsel, State Water Resources Control Board, Sacramento

**EXHIBIT B**



### **Interested Parties**

Robert Eoff  
Heidrick Farms, Inc.  
18284 County Road 97  
Woodland, CA 95695

Nina Ciani  
SWRCB, UST Cleanup Fund  
P.O. Box 944212  
Sacramento, CA 94244

Lloyd Gray  
P.O. Box 328  
Woodland, CA 95776

Robert S. Moore II  
National Energy & Gas Transmission, Inc.  
7600 Wisconsin Ave.  
2nd Floor  
Bethesda, Maryland 20814

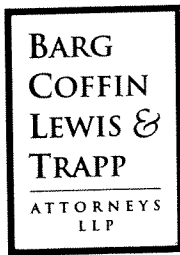
Steve Gidaro  
Conaway Preservation Group, LLC  
c/o Gidaro Group, LLC  
2251 Fair Oaks Blvd., Suite 300  
Sacramento, CA 95825

Jeff Pennow  
Yolo County Environmental Health  
20 Cottonwood Street  
Woodland, CA 95695

R. Morgan Gilhuly  
Barg Coffin Lewis & Trapp, LLP  
One Market, Steuart Tower, Suite 2700  
San Francisco, CA 94105

Todd Brown  
Secor International, Inc.  
3017 Kilgore Road, Suite 100  
Rancho Cordova, CA 95670

EXHIBIT C



One Market  
Steuart Tower, Suite 2700  
San Francisco, CA 94105-1475  
Tel 415 228 5400  
Fax 415 228 5450  
[www.bcltlaw.com](http://www.bcltlaw.com)

December 20, 2005

**VIA FEDERAL EXPRESS**

Mr. Richard P. McHenry  
California Regional Water Quality Control Board  
Central Valley Region  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

**Re: Conaway Ranch Project, Yolo County**

Dear Mr. McHenry:

Enclosed is a copy of Conaway Preservation Group, LLC's Petition for Review of "Cleanup of Petroleum Fuel Pollution, Conaway Ranch, Yolo County – Request for Reconsideration of Staff Denial of Coverage Under General Order No. 5-00-119," regarding the above-referenced site. We are sending the original to the State Water Resources Control Board today via facsimile and electronic mail.

Very truly yours,

BRETT S. HENRIKSON

BH2:ecr  
Enclosure

## PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Barg Coffin Lewis & Trapp, LLP, One Market, Steuart Tower, Suite 2700, San Francisco, California 94105. On December 20, 2005, I served the following document:

## PETITION FOR REVIEW

- ☒ by transmitting via facsimile the document(s) listed above to the fax number set forth as indicated on attached service list on this date before 5:00 p.m.
- ☐ by causing personal delivery overnight delivery by Federal Express of the document(s) listed above to the person at the address set forth below.
- ☐ by dispatching a messenger from my place of business with instructions to hand-carry the above and make delivery to the following during normal business hours, by leaving a true copy thereof with:
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
- ☒ by transmitting via email the document(s) listed above to the email address(es) set forth below on this date before 5 p.m.

Elizabeth Miller Jennings  
Senior Staff Counsel  
State Water Resources Control Board  
Office of Chief Counsel  
1001 "I" Street, 22<sup>nd</sup> Floor  
Sacramento, CA 95814  
T: 916-341-5175  
F: 916-341-5199  
Email: [bjennings@waterboards.ca.gov](mailto:bjennings@waterboards.ca.gov)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 20, 2005, at San Francisco, California.



Elia C. Redfield